

The “50% Rule”

Miss. Code Ann. § 47-7-3.2(1)

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“Notwithstanding Sections 47-5-138, 47-5-139, 47-5-138.1 or 47-5-142, no person convicted of a criminal offense on or after July 1, 2014, shall be released by the department until he or she has served no less than fifty percent (50%) of a sentence for a crime of violence pursuant to [Section 97-3-2](#) or twenty-five percent (25%) of any other sentence imposed by the court.”

Purpose

To “[e]nsure certainty and clarity in sentencing.”

The Task Force found that “[d]ue to a variety of earned time and early release mechanisms, it is difficult to predict how much time an offender will spend in prison.” Final Report at 11.

[http://www.mdoc.state.ms.us/PDF%20Files/MS TaskForce FinalReport.pdf](http://www.mdoc.state.ms.us/PDF%20Files/MS%20TaskForce%20FinalReport.pdf)

Task Force Recommendation

“Institute ‘true minimums’ to guarantee that nonviolent offenders serve at least 25 percent and violent offenders serve at least 50 percent of their court-order sentences. In the case of violent offenders, it would only affect those offenders currently earning trusty time and, therefore, able to leave before serving 50 percent of their sentences.” Final Report at 12.

Task Force Recommendation Cont.

“Offenders who are eligible for earned time or parole would remain eligible and would earn time at the same rate **but would not be able to be released before meeting the minimum thresholds.**” Final Report at 12.

Task Force Recommendation Cont.

“This policy would only increase the percent of the sentence served; it would not decrease the percent of the sentence served for any offender. Offenders who are currently statutorily required to serve 100 percent or 85 percent of their sentence would continue to serve at least those minimums.” Final Report at 12.

The “50% Rule” does **NOT** affect an inmate’s parole eligibility

Inmates convicted of “violent offenses” have been **in**eligible for parole since June 30, 1995. *See* Miss. Code Ann. § 47-7-3(1)(f).

Inmates convicted of “violent offenses” are still ineligible for parole.

“No person who, on or after July 1, 2014, is convicted of a crime of violence pursuant to Section 97-3-2, a sex crime or an offense that specifically prohibits parole release, shall be eligible for parole. All persons convicted of any other offense on or after July 1, 2014, are eligible for parole after they have served one-fourth ($\frac{1}{4}$) of the sentence or sentences imposed by the trial court.” Miss. Code Ann. § 47-7-3(1)(g)(i).

The 50% Rule **limits** the total amount of administrative sentence reductions that an **eligible** inmate may receive.

Administrative Reductions

ERS - Some inmates can earn a 15% “earned release” reduction in their sentence. *See* Miss. Code Ann. §§ 47-5-138 & 139.

Trusty Time (“30 for 30”) - Some inmates can earn 30 days credit for every 30 days they are in “Trusty” status. *See* Miss. Code Ann. § 47-5-138.1

MET – Some inmates can earn additional “Meritorious Earned Time” reductions for participating in programs. *See* Miss. Code Ann. § 47-5-142.

Before HB 585, an inmate **eligible** for ERS (15%), Trusty Time (50%) and MET could earn enough reductions to be released after serving less than 35% of his sentence. Now, he must serve at least 50% of his sentence.

[Note: The “50% Rule” only applies to crimes committed after July 1, 2014.]

Some inmates are still required to serve 100% (or at least 85%) of their sentences.

For example, armed robbery, attempted armed robbery, and sex crimes are still day-for-day sentences.

Not eligible for ERS (15%)

- Serving a life sentence.
- Convicted as a habitual offender.
- Convicted of a sex crime.
- Convicted of armed robbery or attempted armed robbery.

See Miss. Code Ann. § 47-5-139(1)

Not eligible for Trusty Time (30 for 30)

- Serving a life sentence.
- Convicted as a habitual offender.
- Convicted of a sex crime.
- Convicted of armed robbery, attempted armed robbery, armed carjacking, or drive-by shooting.
- Convicted of trafficking in controlled substances.

See Miss. Code Ann. § 47-5-138.1

Not Eligible for MET

MDOC has taken the position that inmates ineligible for ERS are also ineligible for MET.

See, e.g., Sykes v. Epps, 963 So.2d 31 (Miss. Ct. App. 2007).